

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Criminal Action No. 1:17CR32  
(Judge Keeley)

MICHAEL WESLEY,

Defendant.

MEMORANDUM OPINION AND ORDER DENYING DEFENDANT'S  
MOTION FOR SENTENCE REDUCTION [DKT. NO. 1930]

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Pending is the motion for sentence reduction/compassionate release filed by the defendant, Michael Wesley ("Wesley"), pursuant to 18 U.S.C. § 3582(c)(1)(A) [ECF No. 1930]. For the following reasons, the Court **DENIES** his motion.

On June 20, 2017, a grand jury sitting in the Northern District of West Virginia named Wesley and 34 other defendants in a 129-count Superseding Indictment [ECF No. 1], which charged him with one count of conspiring to distribute oxycodone (Count One); two counts of distributing oxycodone (Counts Thirty-Seven and Sixty-Two); and three counts of aiding and abetting the distribution of oxycodone (Counts Forty-Six, Fifty-Two, and Sixty) [ECF Nos. 1, 136]. Meanwhile, a grand jury sitting in the Northern District of Ohio named Wesley in a ten-count Indictment related to an identity theft scheme [ECF No. 1621 at 19]. After he pleaded

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guilty to three counts in this Indictment,<sup>1</sup> the Honorable James Carr, Senior United States District Judge, sentenced Wesley to a total term of imprisonment of 138 months, to run consecutively to any sentence imposed in Wesley's West Virginia case. Id.

Thereafter, Wesley pleaded guilty to distribution of oxycodone, as charged in Count Thirty-Seven of the Superseding Indictment in this case [ECF No. 1505]. On January 30, 2020, the Court sentenced him to 151 months of imprisonment and ordered that his sentence run concurrently with the sentence imposed by Judge Carr in the Northern District of Ohio [ECF No. 1611].<sup>2</sup> Currently, Wesley is incarcerated at FCI Hazelton, with a projected release date of May 3, 2028.<sup>3</sup>

On November 19, 2021, Wesley filed a pro se motion for a sentence reduction pursuant to 18 U.S.C. § 3582, requesting a reduction from 151 months to 138 months in order to match the sentence imposed by Judge Carr [ECF No. 1836]. The Court denied this motion because finding that no extraordinary and compelling

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<sup>1</sup> Specifically, Wesley pleaded guilty to conspiracy to commit access device fraud; illegal possession of access device - making equipment; and aggravated identity theft. Id.

<sup>2</sup> Wesley appealed the sentence imposed by Judge Carr, arguing that he should have ordered the sentences imposed in the Northern District of Ohio and the Northern District of West Virginia to run concurrently [ECF No. 1839 n.1]. Once the Bureau of Prisons ("BOP") clarified that it would run Wesley's sentences concurrently, the Court of Appeals for the Sixth Circuit dismissed his appeal. Id.

<sup>3</sup> See Federal Bureau of Prisons, <https://bop.gov/inmateloc/> (results for Register No. 38394-068) (last visited April 20, 2023).

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reason existed to justify a reduction of his sentence and that any such reduction would be inconsistent with the § 3553(a) factors [ECF No. 1897].

Now pending is Wesley's motion for sentence reduction filed February 28, 2023, contending that "[t]he HARDSHIP ACT became Law on January 15, 2023, in which a defendant can now file a motion for sentence reduction up to ten (10) months in the event defendant was detained in pre'-trial/pre-sentence confinement during the time frame of 2019-2022" [ECF No. 1930]. According to Wesley, he is eligible for such a sentence reduction under this act. Despite his contentions, Congress has not passed any "Hardship Act" which would entitle him to a sentence reduction. Thus, this nonexistent legislation does not afford Wesley any relief and the Court **DENIES** Wesley's motion [ECF No. 1930].

The Clerk shall transmit copies of this Order to Wesley, via certified mail, return receipt requested, and to counsel of record and all appropriate agencies by electronic means.

DATED: May 2, 2023



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THOMAS S. KLEEH, CHIEF JUDGE  
NORTHERN DISTRICT OF WEST VIRGINIA